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Paper No. 14

FINNEGAN , HENDERSON, FARABOW,  
GARRETT & DUNNER  
1300 I STREET, N.W.  
WASHINGTON, DC 20005-3315

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**MAY 14 2003**

**OFFICE OF PETITIONS**

In re Application of  
Candice Hellen Brown Elliott  
Application No. 10/024,326  
Filed: December 14, 2001  
Attorney Docket No. CLRV-002

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: DECISION ON PETITION  
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This is a decision on the "Petition under 37 C.F.R. § 1.17(h) that Missing Page 19 was Submitted to the USPTO," filed February 4, 2003. Petitioner requests, in essence, that the above-identified application be accorded a filing date of December 14, 2001, with page 19 of the specification considered a part of the original application disclosure.

Application papers in the above-identified application were filed on December 14, 2001. However, on January 9, 2003, the Office mailed a "Notice of Omitted Item(s) in a Nonprovisional Application," advising applicant that the application papers had been accorded a filing date of December 14, 2001; however, page 19 of the specification appeared to have been omitted.

In response, applicant timely filed the instant petition (and petition fee). Applicants assert that page 19 of the specification was submitted to the USPTO with the filing of the application on December 14, 2001. In support thereof, applicant submitted a copy of their return postcard from the USPTO. Petitioner also submitted a copy of page 19 as originally filed.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. A review of petitioners' postcard receipt reveals that: 1) it was date stamped as received in the USPTO on December 14, 2001, and the items filed therewith were assigned Application No. 10/024,326; 2) it specifically identifies the items being filed, including "14 Pages of Specification, 8 Pages of Claims, 1 Page of Abstract, and 5 sheets of Drawings" and 3) it lacks any annotation of nonreceipt of any item denoted on the postcard. Thus, petitioners have shown that the items denoted were filed on December 14, 2001.

The application papers already considered received in the Office on December 14, 2001, were reviewed along with page 19 of the specification submitted on petition. These papers together constitute the items described on the postcard receipt as "14 Pages of Specification, 8 Pages of Claims, 1 Page of Abstract, and 5 sheets of Drawings" It is concluded that

petitioner has shown that page 19 of the specification was among the items present in the application on the date of deposit and should be included in the original application disclosure.

Accordingly, the petition is GRANTED.

Given the basis for granting the petition, the petition fee is being refunded to Deposit Account No. 06-0916.

The application is being returned to the Office of Initial Patent Examination (OIPE) for:

- reprocessing with a filing date of December 14, 2001 using the application papers received in the Office and presently accorded that date; and page 19 of the specification resupplied on petition filed February 4, 2003.

Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries related to this decision should be directed to Petitions Attorney Nancy Johnson at 703-305-0309.

*Christina Carter Donnell for*

Beverly M. Flanagan  
Supervisory Petitions Examiner  
Office of Petitions